

Helms Case Wasn't the Only

The president said, with a trace of self-pity, that "the Helms case is one that we inherited."

There is still another inheritance from Attorney General Griffin Bell's scholarly predecessor, Edward Levi, the case of John J. Kearney, a New York FBI agent who is facing trial for alleged illegalities in the pursuit of the Weathermen.

Will the Helms precedent be applied? Can Kearney hope for what the president called in his news conference "a negotiated settlement?" The former CIA director was allowed to plead *nolo contendere* to a misdemeanor rather than a felony. His two-year sentence was suspended and his \$2,000 fine was collected at a fund-raising spontaneously launched by old CIA boys at a country club lunch, to which he sped from the courtroom.

The Carter administration privately rages against Levi for dropping two such hot potatoes in parting. A CIA director was bad enough, but an FBI agent is worse, because, as Bell complained to Los Angeles

Times reporter Jack Nelson, "You wouldn't believe the reservoir of good will among the American public for the FBI."

"HE HAD TO BE bludgeoned into signing the Kearney indictment," said one former insider involved in its preparation. Cases against half a dozen other agents were also brought in, but no action has been taken.

Benjamin Civiletti, who is second in command at the Criminal Division of the Justice Department, told a reporters' breakfast that there were "substantial differences" between the Helms and the Kearney cases. The Kearney allegations related to "a repetitive course of conduct" whereas Helms' only problem was with two "testimonial" incidents. And there are no national security and national secrets involved in the FBI matter.

Could Kearney plea-bargain his way out of trial?

Civiletti replied non-committally that the "government would be will-

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ing to discuss any appropriate disposition of any criminal case."

But if they have differences, the cases have one crucial similarity, Edward Bennett Williams. He is Washington's most formidable criminal lawyer. Amid reluctant government prosecutors, he is a lion among lambs.

THE OTHER SIMILARITY is that the people who were upset about Helms feel even more so about Kearney. Under the banner of former Treasury Secretary William E. Simon, they have raised half a million dollars for Kearney and were ready to pass the hat for Helms had he been indicted. The two cases, Simon says, are "part and parcel of the continuing efforts of the Soviet Union — unwittingly aided by all too

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many misinformed and misguided individuals in our own country — to wreck American intelligence and counterintelligence activities."

The attorney general's audible groans arise from the deepest conviction he has yet expressed, which is that people should not be judged today by yesterday's standards. He wants no part of bringing in "a verdict against a generation."

He still broods over the treatment — he regards it as abuse — which he suffered at his own confirmation hearings, where he was rigorously challenged for his passive, and some think negative, role in bringing about civil rights in his native South. In the climate of the times, he often complained, he did well.

THE WHOLE Watergate era,

which produced the present mania for accountability in public officials, passed him by, as it did his principal, President Carter. They both would prefer to close the book and establish new guidelines.

And they obviously think they did brilliantly in the Helms case. By their lights, they saved the country, preserved its nastiest secrets and at the same time "upheld the law."

The president said that at the first White House meeting on the matter they had not thought a "negotiated settlement was possible." It was only through luck and skill that Williams was coaxed into what the president called "an inclination . . . to act in a proper way, or patriotic way."

But the president was nervous and stumbling in talking about it. His part in the arrangement, which he has been trying to minimize, was inadvertently revealed by the attorney general.

Besides, his contention that the "law was upheld" was turned into mush by the contempt for the court which Williams and Helms displayed

once they were safely out of the courtroom.

WILLIAMS CALLED the conviction "a badge of honor," and Helms defiantly said he had no obligation to reveal, explain or justify CIA policy to Congress.

Civiletti said he found Williams' comments "excessive" and suggested that the lawyer had been stung by the judge's lecture. But Helms' unrepentance had been mimeographed.

The whole episode has been highly instructive to Williams and Kearney. They have plumbed the depths of the Carter administration's unwillingness to prosecute the past. They have long known that Griffin Bell is much more interested in restoring morale at the FBI than in making an example of one of its own.

If Williams will just promise not to crow afterward, he can perhaps get a good deal for Kearney.